P26

App. F. IX-4 | 1932 | File No. 115/32

Previous References (Polit) | Serial Nos. Nil

Later References
Pol 213-36-1-2

PRESERVED

GENERAL AND REVENUE SECRETARIAT

Serial Nos.

Part B for

SUBJECT.

Controlling fee - Pathan Moneylenders

General and Revenue Secretariat | File No. | of 193

Serial No.

Petition dated 26-5-33 from R Reddy addressed to the Dewan praying that he & others who are debtors to Pathans, may be freed from their cruel clutches.

Chief Secretary's order " This seems to be a genuine complaint requiring some notice"

The question of taking preventive steps by passing a legislative enactment in the matter was considered at length in 1931 32 & it was ordered that greater protection to borrowers can be afforded by extending the provisions of the Agriculturists' Relief Regulation to other parts of the State and that as regards Pathans there were no instances of their violent methods & late & that the question of better control may then might lie over for the present vide Legis file 55 30.

Of late Petitions are frequently being received complaining of the violent & unlawful methods adopted by the Pathans in dealing with their clients & in connection with petitions in April 1933, it was ordered that Police should take necessary action if the Pathans are found to

Beyond the allegations contained in the petition, it is not certain whether any instances of violent & unlawful methods of Pathans have come to the notice of the Police & if such instances have come, what action has been taken by the Police & the Dist

In case of such instances being

NOTE—Contn. Sheet.

WD 0246—GPB—15,000—22-8-32

rampant & many manifest, the best Magte can take action under Section 43 of the Police Regulation to see that the class of people — Pathans conduct, & remove, themselves outside the State.

It is generally alleged that the Pathans do not carry on their business in areas the C & M Station Bangalore limits, but it is ascertained that the Station authorities have not passed any prohibitory orders in the matter. All the same it is not clear why these people keep away from the Station area. It cannot be that the Pathans are averse to lend money to people residing in the Station limits It has to be inferred that the Police are more vigilant in the Station area in that they book the Pathans of their own accord in case of the least manifestation of their unlawful tendency, without waiting for the aggrieved party to seek justice.

The Dist Magte & the D. C. of Police may be requested to ascertain why these Pathans generally do not lend money to the residents of Station area & what is the deterrent agency there, and that to take a similar measure in respect of the city area also.

file put up
& it represents
facts.

The Pathans
in the C & M
their prevents
the ...
does not ...
cons = Constable
purposes ...
the Station ...
for ...
MSR
30-5-33

Pathan Moneylenders — Prohibition 3

61

General and Revenue Secretariat | File No. | of 193 . | [App. F. III—2

Serial No.

Submitted for orders.

30/5/1933.

A copy of the representation may be sent to the D.C. of Police with a request that he may enquire and report as to how far steps have been taken to prevent these moneylenders from harassing the poor officials near the Offices & elsewhere — He may also be asked to find out if any action is taken against these people in the C & M Stn, Bangalore — I have also heard it said that they are well controlled there.

Please put up a suitable draft —

30/5/33

Draft letter is submitted for appl.

1/6/1933

3/6/33

To

The D. C. of Police

Letter no P 6 32 2(4) dated 2.6.33 forwarding the petition for enquiry & report as to the action taken against the Pathan harassing the Officials

NOTE—Contn. Sheet.

TYPING SECTION
7. JUN. 1933
GENL. & REV SECTT.

WD 0246 —GPB—15,000—22-8-32

File No. of 193 .

General and Revenue Secretariat

and for furnishing information as to the action taken against them in the C. I. D. Station.

10/6/33
12

Re patteans.

15

General and Revenue Secretariat | File No. | of 193 . | [App. F. III—2

Serial No.

Chief Secretary's orders On the News-paper Cutting of "Vivakarnataka" Dated 18th May 1933 — "Havoc of the Patteans"

O.B.

1) How about this ? I remember having Once asked if there was any trouble here

Intof: R.R.
20-6-33.

Intof: A.R.
20/6/33.

Flag W (Linked file)

2) A petition dated 29.4.33 from a public sympathiser was received in the S.R.S. on which the Chief Secretary enquired if there were any trouble near the Secretariat from there people and remarked that a number of patteans were hanging about.

The Assistant Secy: Law Section noted on 12/5/33 that, if the patteans are found to harass officials near the public offices, the police can take necessary action in preventing them.

These papers were filed as per orders of Chief Secretary on 26-5-33.

Flag V (Linked file).

Flag Y

Another petition of 26-5-33 from One K: Rama Rao addressed to the Dewan was received in the Protection Branch Complaining against the treatment accorded by Pattans to their debtors.

NOTE—Contn. Sheet.

WD 0246 —GPB—15,000—22-8-32

6 Subject :- Pathans harassing the Officials near the Offices & elsewhere.

File No. of 193 .

General and Revenue Secretariat

A copy of this petition has been sent to the I.G. of Police in regard for enquiry & report if any steps are being taken to prevent Pathans from harassing Officials near the Offices & elsewhere & what steps may be taken under the present laws to control them as also the action taken against these people in the C.P.M. Station - Vide letter no. P 6322 dt 8.6.33 and their report is awaited.

3) Subd. with reference to Chief Secy's orders in paragraph of the Note supra.

Sd/ DD
22.6.1933.

4) Chief Secy) 23/6

Ch

5) Sd/ 26/6/33.
Ch 27/6

6) May these papers be now transferred to the Protection Branch? Subd for orders.

7) Simla Protection Branch (W.C.)

Sd/
24.6.33. D

8) Reply from the I.G.P. Punjab may kindly please be awaited.

Sd/ A
29/6/33

Sd/ A
2 Jul

General and Revenue Secretariat | File No. | of 193

Serial No.

Petition dated 12-7-33 from Messrs K. Rama Rao & P. Gurayara Rao to the Dewan, complaining about the Pathan Money lenders menace.

From

The D. C. & P. Police

Letter no S. B. 276/32-33 dated 11-7-33 stating that with the law as it stands now it is not possible to take any action against the Pathan Money lenders, and suggesting that the introduction of Money lenders Act might prove effective.

9) It is stated that the pathan money lenders charge a very exorbitant rate of interest varying from 78 to 700 per cent pr annum and that the introduction of Money lenders Regulation will prove effective. The D. C. & P. Police has furnished a copy of the Madras Money lenders Act for reference.

10) The question of introducing Money lenders Act in Mysore has been considered in Legis file 55-31 placed below and it has been ordered that much benefit cannot be derived thereby in so far as the Pathan money lenders are concerned as "any legal impediment to the recovery of his dues would be overcome by by a more frequent resort to forcible methods of settlement out of court" and that "on the whole it seems nothing useful is to be gained by introducing this piece of legislation." Vide para 15 of the notes in the Legis file.

NOTE—Contn. Sheet.

WD 70—GBPM—60,000—13-8-31

Pathans Money lenders

File No. of 193 General and Revenue Secretariat

It has also been ordered that as regards Pathans we have not lately hearing of their violent methods & the regulation of usury control over them may lie over for the present" vide para 16 of the note in the Legis file

Submitted for orders

21/7/33 (1) Mr. Kalikinkar Roy with

Please mark on the draft Bill

The essential differences between the Madras Bill & the Punjab Regulation of Accounts Act.

C.R. 21/7

Punjab Act I of 1930 (Act No 227 in Pub. Acts & Rules Book) 23/8

(2) The Madras Bill practically the Punjab Reg. of accounts Act 1930 with some modifications, such as Cl 3 : provision regarding registration of the name & place of business of the 'Money-Lender' and Cl 6 : provision regarding the disallowance of interest by Court if it exceeds 18% per annum

(3) The minor changes have been indicated in the Madras Bill and Punjab Sections are noted against each clause

(4) The Madras Bill is pending before the Select Committee of the Legis Council

Sir

Serial No.

15) This matter was considered in the early part of 1932. The Govt was of opinion that any system of licensing moneylenders would be unworkable & the Govt agreed with this. Regarding introduction of legislation on the lines of the Punjab Regulation of Accounts Act, it was the opinion that nothing magnl will be gained by such legislation.

16) The Madras Bill is almost similar to the Punjab Act. We may wait for sometime & see what final shape the Madras Act takes & how it works in practice.

17) The particular matter in point is the methods adopted by the Pathan moneylenders. The complaints are (1) that they take bonds for a very much larger figure than is actually lent (2). That they charge exorbitant interest & (3) that they resort to violent methods if not repaid in time. Regarding (1), much depends on the borrower & if the Court resist the execution of such a bond the law cannot help him very much. As regards (2), Courts relieve against usurious interest under the usurious loans Regulation. As regard to (3), it is a matter for the Police

NOTE—Contn. Sheet.

WD 70—GBPM—60,000—13-8-3

10 Pathan money lenders

If any particular man is rowdy or likes to assaulting his debtors, the police can put him up under the four behaviour sections of Cr. P. Code

18) As regard the complaint that these Pathans prowl about the Public offices to harass their debtors when they exit from the offices, the D.S.P is taking action to send them out.

Chief Secretary) to Ce 4/8/33

19) Seen RB 8/8 Ce 15/8/33

20) May be sent to the Office Branch for noting the above orders as well as for detaching the O.B files.

RB 6/8/1933

21) The Supt, O.B. note compliments WSK 16/8/33

22) If agreed, a copy of the above notes order will be got typed & kept in the linked O.B. File. Submit for orders

Supdt DP 17/8/33

23) Yes 19/12/33

24) Notes noted & the file returned to Protection Branch.

Supdt = Prot = Br (with Compts).

DP 19/8/33.

To

O.B.

This seems to be a genuine complaint requiring some notice.

RR 26/3

Rajakaryaprasakta Dewan Bahadur;

M. N. Krishna Rao, Esq., B.A.,

Officiating Dewan of Mysore,

Bangalor

OFFICE OF THE DEWAN OF MYSORE.
Date of Receipt 26.5.3
Petn. Regr. No. 2305

Most Respected Sir,

We the undersigned officials employees of His Highness the Maharaja of Mysore, and the British Resident in Mysore, working from the post of Gumasta to Chief clerk, deputy clerk, manager, Superintendent, etc., of the ministerial Section of the General Secretariat, Revenue Commissioner, Comptroller, Chief Engineer, Superintending and Divisional Engineer, P.W.D., Electrical, Chief Court, Forest, Excise Education, Police, Municipality, Civil Courts, both City and Cantonment, offices, most respectfully and humbly beg to approach with the following miseries, pray for immediate merciful consideration and orders thereto, to first save our lives honour and then modesty of our femals, from the hands of our creditors so called Punjabi Mahamadan Pattans, to whom unfortunately and unavoidable circumstances we have become their debtors.

Sir, owing to our salary cut, deduction towards Provident Funds, Insurance, House Building and House Purchase and Cycle Advance in addition to the Government dues towards any making good or court attachments, we are not in receipt of our full salary, we officials drawing a monthly pay from Rs.15/- to Rs.100/- are in a recept of less than half of our original pay on account of the several deductions shown above. As necessity arises, such as when any sudden deaths take place, girls attaining maturity, and as you know well that we Hindu Brahmins have to perform the required ceremonies in

every

week or month and also to observe the festivals according to our customs when we will have no money for the above purpose. Except these money lenders (Mahamadan Pattans) other money lenders won't lend money without any security and or pluching gold jewels etc., In the absence of these properties when emergent cases referred to above, generally happens then there is no other go for us than going to these pattan lenders for money in order to remove and attend the funeral of the dead bodies and to other important functions. These mahamadan money lenders lend us money on very heavy rate of interest, i.e., from anna and half to four annas per rupee. Whether they lend money, either on the first of the month or in the middle of the month they deduct the interest for the whole month, in addition to it, Re.1-4-0 towards the bond paper, Re.1/- towards the charity of their Mahamad the Prophet, Re.0-8-0 for their servant, 0-4-0 towards their office contingencies etc., So in this way they will take away half of the amount for which they take bonds, they won't grant us any receipt for the amount they have taken nor they will give us their full name and address, but they are residing in Kumbarpet Benkirawab Street, near Tawkalmastan Tumb, Cubbonpet, Thigaderpet, Kengeri gate (near the machine) and several other places where there are other mahamadans are put up. They don't allow us to read the contents of the bond executed nor they will grant us the amount of the loan. They pay a small portion and make us to bate upon them for 2 to 3 hours stating that their Yajaman, brother and relatives, have gone out and will be back with money and they will pay. When they won't return to their rooms for hours together taking this opportunity they make us sure by saying that we may come again to-morrow evening or they will come to our houses and give the balance. Then there is no other go for us to believe them and to come off. They never return again as promised and never

and never be found in their places. When we enquire with their other co-money lenders they say they don't know about them and on the other hand it will be better for us to return the money according to the bond given then simply coming over to them. Accordingly these mahamadan Pattans, come to our residence and to our working placesa after a week from the date of their lending the money and instead of giving us our balance they demand again their interest and the full amount for the pro-note executed. Then we will not be in a position to reply them because they come in such a manner with sticks, hunters in their hands, and began to lowd talk, and owing to shame to talk with them in public circumstances compel us to beg them to go over either to their rooms or to our houses. They won't agree for this. They go tonour houses in our absence and call us when our females reply from inside that we are not at home, then they enter the house and abuse our females and calling them to come and "Sojowe" with them for a short time and son on, and they will never allow us to walk on the roads or to attend to our office work at times. We cannot absent ourselves without permission and how long can we be escaping from the clutches of these Pattans. Therefore we have to leave our houses daily at midnights and come over to our working places hiding, escaping from the hands of these mahamadan money lenders and attend the office without taking meals. At evenings from 4 o'clock to 6-30 they will be standing near our offices, roads, markets, and Cenemas and if they do not find us again they will go to our house and have the same row again there. Unfortunately when we have to meet them they will assault us spiting on our faces. So in this way we are lingering and there is no other goal is left for us than approaching the Benign Government and to the other authorities for salvation and therefore we most humbly and respectfully beg to all the Government high Official

such

such as Dewan of Mysore, British Resident in Mysore, District Magistrate and Inspector General of Police both in city and Cantonment to take into their protection to releive us from the hands of these merciless hard deceiving mahamadans, after making immediate necessary enquiries such as that all these mahamadansmoney lenders should be assembled in one Government public place and all the persons those they have borrowed money from them should also be present at the occasion, and we will show the persons in person, as we don't know their names. Our bonds should be perused by the authorities, of the amount of they have collected from us from the date of executing the said bond. Then the Government will be in a position to know whether our statement is true or not and these money lenders very rare to go to Civil Courts. They have collected money from us at the rate of 1000 times more than what they have actually paid to us. In everyway they have disappointed us and have killed us and killing us daily and there is no one to take care of us and therefore unavoidable circumstances as we are not in a position to pay them or to tolerate their ill-treatment any longer. We have come forward for the protection of our lives and to maintain the modesty of our females, to the feetof Government and the Officers referred to above for their immediate merciful action in the matter. They should not come to our working places or to our houses and towatch us in the roads and to abuse us and to demand, the money for nothing at all since we have paid from years together 1000 times more than what we have taken for which they have not granted any receipts, nor returned the bonds executed by us.

In conclusion we earnestly pray that unless immediate action be taken regarding to safeguard of our lives and to allow us to work in our offices and to live in our houses at

nights

which we are not doing so on account of their trouble, since they have surrendered us in every respect and there is no other goal except Government should protect us or we have to commit suicide ourselves than undergoing the unbearable hardships and miserable treatments by the hands of these pattans.

We beg to remain,
Most Respected Sir,
Your most obedient & Humble servants
who are in trouble.

K. Ramakrishna
& others.

Bangalore,
26th May 1933.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 8th June 1933.

No. P 6322 (9)

From

The *Chief Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Inspector General of Police in Mysore.

Sir,

Subject : Patthan money lenders harassing the officials near the offices and elsewhere.

I am directed to forward herewith a copy of petition dated 26th May 1933 on the above subject, and to request you to be so good as to enquire and report if any steps are being taken to prevent these money lenders from harassing the officials near the offices and elsewhere and what steps may be taken under the present laws to control them.

I am also to request you to kindly ascertain if any action is taken against these people in the C.& M. Station, Bangalore and how they are controlled there by the Police.

I have the honour to be,

Sir,

Your most obedient servant,

for Chief Secretary to Government.

TD

Appendix F G—1]

SUBJECT .....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193* .

Date of issue 9.6.33

Signed by Mr V.S.J.

List of enclosures.....

and what steps may be taken under the present laws to

Copied by.....

Control Department Then.

Examined by.....

Section

File No.

Serial No.

No. P 6322 (64)

To

The D. C. of Police

Subject:- Pathan money-lenders harassing the Officials near the Offices & elsewhere.

Sir,

I am directed to forward herewith a copy of petition dated 26.5.33 on the above subject, and to request you to see so good as to enquire & report ~~to know for~~ what steps have been taken to prevent these moneylenders from harassing the ~~poor~~ Officials near the offices and elsewhere,

I am also to request you to kindly ascertain if any action is taken against these people in the C & M Station

C & M Station, Bangalore ~~by these~~
Police ~~as it is heard that these~~
~~moneylenders are well controlled~~
~~there~~ those. They are watched here by the Police
~~be~~
also.

I have etc

Ca

for Chief Secretary

To

Rajakaryaprasakta

Dewan Bahadur M.N. Krishna Rao Esq., B.A.,

Dewan of Mysore,

Bangalore.

12.7.33

Most Respected Sir,

In continuation of our memorial dated the 24th April 1933 submitted to your personal address praying for the immediate relief by the hands of our Khandaries (Money Lenders) unfortunately we have become their debtors as stated with its details in our last memorial. We know nothing about the action taken by your gracious honour. As we are quite unable to undergo and bear their troubles circumstances has compelled us to approach your honour in the matter. We are not in a position either to remain in our residents or to attend to our duties as we are in their hands, they are watching us throughout the roads and streets of thei city and comes to our houses in late hours of the day and calls us whenever females have to answer them of our absence from our residents, immediately not only they abuse us in vulgar language and knock the doors. On the pay day surrounding the office doors, windows and roadside patrolling, now Sir what we request to your honour is this. either ~~in~~ they must advised by your honour to recover whatever dues we have to give them through the Civil Court, or we may be kindly granted loans from Government so that we may clear off their dues, if any, and the Government amount may be deducted from our salaries. In fact we beg to state that these Mohamadans have collected at the rate of 100 to 1000 rupees, i.e., more than 100 times what they had actually given us. They have not granted any kind of receipts for the amount they have taken from us nor they have return our bonds. They have ruined us, duped us and we are not in a position to stand before them than for the sake of shame and to reserve our honours we are paying money

money for nothing at all to them, our wife and childrens are starving.

. . In conclusion we most respectfully beg your honour for the sake humanity your honour may take pity on us and interfere in this case and relieve us forthwith from our unbearable troubles, unless and until your honour interfere in this matter there is no hope of our being relieved by the hands of this Khandaraes who are worse than butchers.

We beg to remain,
Most Respected Sir,
Your most obedient servants,
K Rama Rao
P. Gurunaja Char

Bangalore,
12th July 1933.

POLICE DEPARTMENT

Tel. Address
"ALACRIS"
PHONE No. 298

When replying please quote
No. S.B. 279/32-33.

OFFICE OF THE INSPECTOR GENERAL OF POLICE
IN MYSORE

Dated Bangalore, 11th July, 1933.

From

F. A. HAMILTON, Esq., C.I.E.,
Inspector General of Police in Mysore,
BANGALORE.

To

R. Ranga Rao, Esqr., B.A., B.L.,
Offg. Chief Secretary to the
Government of Mysore,
BANGALORE.

Sir,

With reference to your letter No.P.6322(4) dated 8/9th June, 1933, forwarding a copy of petition of certain clerks complaining of harassment by pathan money-lenders, I have the honour to state that the Superintendent of Police, Bangalore City, reports that whenever a case of tresspass against the pathans is complained of, action is taken by the Police, but that with the law as it stands it is not possible to take action against these money-lenders unless violence is resorted to. I have to add that the Commissioner of Police, Civil and Military Station, Bangalore, in reply to a reference reports that there is no authority on which he can take action against these people.

I would like to add that an enquiry has been held into the methods adopted by these Pathan money lenders in different places in the State. The places in which they chiefly operate are, Bangalore City, Tumkur and the Kolar Gold Fields. When a loan is demanded it is the practice of the money lender to deduct from the amount mentioned in the bond a percentage of the sum mentioned therein varying from 20 to 50 per cent. This implies that there is an initial charge of interest varying from 33 1/3 to 100 per cent on the sum actually lent. In addition to this the monthly interest charged varies from 6 pies to 4 annas on the Rupee and this is charged sometimes on the sum actually lent and sometimes on the amount entered in the bond. The rate of interest charged therefore may vary from 78 to 700 per cent per annum.

The amount of interest agreed upon is purely speculative since in the event of the borrower failing to pay and resort being had to a court, the amount of interest agreed upon is never allowed but only a comparatively moderate charge such as 4 to 6 pie per rupee per mensem.

The Pathan money-lenders claim that they take undue risks in that they lend without security. This is not quite correct as their clients are chiefly - like the petitioners - clerks in Government employment and have a certain amount of security in the fact that they draw monthly pay and it is on the security of this pay that the money lenders really give their loans. It is natural therefore that the clerks should be pestered to pay their interest as soon as they draw their pay.

In most of the cases enquired into it was found that the borrowers approached the Pathans after having failed to secure loans elsewhere as with Banks, Co-operative Societies and Marwaris, as none of these institutions will lend without security. It is thus clear that the Pathan fulfills the need in that money can be borrowed from him when no other recognised money-lending institution will meet the demand. In such case it is to be considered whether the Pathan money-lender in his turn is not deserving of some protection. So far as the petitioners are concerned the obvious retort to their petition is that they should not borrow. In the position in which they are placed however, it appears to be inevitable that they should do so and I think it will be found in many of the cases of the petitioners that before approaching the Pathans they have exhausted all possible sources of obtaining money on loan. Their petition shows this is largely due to the insufficiency of their pay and the burdens that the social and caste customs they have to adhere to impose upon them. It becomes obvious

that their salaries are insufficient to supply the household social and caste calls upon their resources, and that it is inadequate pay which has reduced them to the condition on which they now find themselves. The standard of living has risen since salaries were fixed while salaries remain stationary or have actually being reduced.

It is a matter for consideration, therefore, whether the salaries paid to the petitioners are really sufficient to enable them to live in that state and condition of life which their position renders imperative and whether they must not make up the deficiency in their earnings by borrowing money which they cannot repay, especially when the interest levied is exorbitant. It would seem that either salaries must be increased or social and caste customs be abandoned.

Steps which might prove deterrent against the borrowing complained of might take the form of a warning to all Government Servants against borrowing generally and insistence on the strict application of Rule 15 of theRules regulating the conduct of Public Servants. A similar warning might issue to money-lenders warning them that Government disclaim any responsibility in connection with sums lent to their servants.

It is possible also that the introduction of a Money-lenders Act might prove effective. I append a copy of the Madras Money lenders Bill for information as this may serve as a basis on which such ~~an~~ a legislation can be compiled.

I have the honour to be,
Sir,
Your most obedient servant,

INSPECTOR GENERAL OF POLICE.

BILL NO. 21 of 1932.

THE MADRAS MONEY LENDERS BILL.

A bill to regulate the business of certain kinds of money-lending.

Preamble.

Whereas it is expedient to make provision for the better conduct of the business of certain kinds of money-lending in the Presidency of Madras and for regulating the keeping of accounts relating thereto, and whereas the previous sanction of the Governor-General to the passing of this Act has been obtained; It is hereby enacted as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Madras Money Lenders Act, 1932.

(2) It extends to the Presidency of Madras.

(3) It shall come into force on such date as the Local Government may, by notification, appoint in this behalf.

2. In this Act, unless there is anything repugnant to the subject or context:-

(1) "Bank" means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the colonies or dependencies thereof or in British India or incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature.

(2) "Company" means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the colonies or dependencies thereof or in British India or incorporated by an Act of Parliament or by Royal Charter or Letters Patent and includes life assurance companies to which the Indian Life Assurance Companies Act, 1912, applies, but shall

Act VI of 1912

not include "private company" as defined in the Indian Companies Act, 1913.

Act VII of 1913.

(3) "Co-operative Society" means a society registered under the provisions of the Madras Co-operative Societies Act, 1932.

MADRAS ACT VI of 1932

(4) "Court" includes a court acting in the exercise of insolvency jurisdiction.

(5) "Money-lender" means a person, who regularly pursues the business of advancing loans and shall include the legal representative and the successor-in-interest whether by inheritance, assignment or otherwise of the person who advanced the loan.

(6) "Interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

(7) "Loan" means an advance whether of money or in kind at interest and shall include any transaction which the Court finds to be in substance a loan, but it shall not include --

(i) a deposit of money or other property in a Government Post Office Bank, or any other bank or in a company or with a co-operative society;

(ii) a loan advanced by a bank, a company or a co-operative society;

(iii) a loan advanced by Government or by any person authorized by Government or by any local body in exercise of statutory powers;

(iv) a loan advanced by any person bonafide carrying on any business, not having for its primary object the lending of money, if such loan is advanced in the regular course of such business;

(v) a loan advanced by a landlord to his tenant,

by lessor to his lessee, by partner in cultivation or co-sharer to another for the purpose of carrying on agriculture;]

(vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note;

Act XXVI of 1881.

(vii) "Prescribed" means prescribed by rules made under this Act.

3. Every "Money-lender" shall register his name and address of his place of business before such authority and in such manner as the Local Government may prescribe and shall communicate to the said authority any change in his place of business from time to time. Any such person ceasing to carry on the business of money-lending may on application to the said authority get his name struck off from the register.

4. (1) Every money-lender shall --

(a) give to the debtor or his agent duly signed and stamped, if necessary, receipts for all sums received by him from the debtor or his agent at the time of receipt;

(b) regularly record and maintain in addition to such accounts as he may ordinarily maintain an account of transactions relating to loans for each debtor - separately and in such form as the Local Government may prescribe:

Provided that the local Government shall prescribe the forms, language, script and numerals in which the accounts are to be recorded and maintained.

(c) if on the thirtieth day of June or on the thirty-first day of December in any year any balance or amount is due to him from a person on account of a loan, send to such person before the thirty-first day of July or the thirty-first day of January next following a state-

statement of account including an account of all transactions, if any, relating to the loan during the next preceding six months in such manner and in such form and containing such details as the Local Government may prescribe;

(2) notwithstanding anything contained in the Indian Evidence Act, 1872, entries in books of account prescribed under clause (b) of sub-section (1) shall be deemed to be relevant for proving any transaction to which they relate, and copies of such entries certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

Act 1 of 1872.

Explanation- A person to whom a statement of account has been sent under clause (c) of sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not, by itself, be deemed to be an admission of correctness of the account.

Penalty for non-compliance.

5. (1) Notwithstanding anything contained in any other enactment in force for the time being --

(a) Any money-lender found guilty of non-compliance with the provision as to registration contained in section 3 or with the provision contain ed in clause (a) of sub-section (1) of section 4 or with both shall be punished with a fine which may extend to Rs.200.

(b) On complaint made or information received any Police Officer not below the rank of a Sub-Inspector of Police shall take cognizance of offences against the provision contained in section 3 or in clause (a) of sub-section (1) of section 4 or with both.

(2). (a) In any suit or proceeding relating to a loan the Court shall, if necessary, before deciding the clai

on the merits, frame and decide the issue, whether the creditor has complied with the provisions of clauses (b) and (c) of sub-section (1) of section 4.

(b) If the Court finds that the provisions of clause (b) of sub-section (1) of section 4 have not been complied with by the creditor the Court shall, if the plaintiff's claim is established in whole or in part, disallow the whole or in portion of the interest found due, as may seem reasonable to the Court in the circumstances of the case and shall disallow costs.

(c) If the Court finds that the provisions of clause (c) of sub-section (1) of section 4 have not been complied with by the creditor, the Court shall in computing the amount of interest due upon the loan exclude every period for which the creditor ~~has~~ omitted duly to furnish the account as required by clause (c) sub-section (1) of section 4; provided that if the creditor has after the time prescribed in that clause furnished the account and the plaintiff satisfies the Court that he has had sufficient cause for not furnishing it earlier, the Court may, notwithstanding such omission, include any such period or periods for the purpose of computing the interest.

EXPLANATION:- A person who has kept his accounts and sent his six-monthly statements of accounts in the form and manner prescribed in clauses (b) and (c) of sub-section (1) of section 4 shall be held to have complied with the provisions of these clauses, in spite of errors and omissions, if the Court finds that the errors and omissions, are accidental and not material and that the accounts have been kept in good faith with the intention of complying with the provisions of these clauses.

Interest

6. In any suit upon or relating to any transaction with a money-lender within the meaning of this Act, notwithstanding any agreement and any provision of law to the contrary .--

(a) Interest on any debt or liability shall not be allowed or decreed by the Court at a rate higher than 18 per centum per annum, simple interest.

(b) If compound interest is charged, the Court shall allow only such amount as in any event does not exceed simple interest calculated at the rate of 18 per centum per annum.

Savings.

7. The provisions of this Act shall not apply to any loan advanced before the commencement of this Act.

Power of Local Government to make rules.

8. The Local Government may make rules not inconsistent with the Act for the purposes of carrying out all or any of the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Local Government may make rules ---

(a) prescribing the forms, language, script and numerals to be used in the accounts required by clause (b) of sub-section (1) of section 4.

(b) prescribing the manner in which the accounts required by clause (c) of sub-section (1) of section 4 shall be submitted by the creditor to the debtor, the forms to be used and the details to be incorporated therein.

STATEMENT OF OBJECTS AND REASONS.

The business of money-lending, with which is often associated the sale of jewels and articles of common use, as carried on by certain classes of money-lenders is very unsatisfactory and places the debtors who are largely drawn from the middle and working classes at the tender mercy of the money-lenders. The need, ignorance and

illiteracy of the debtors are being exploited by certain classes of money-lenders to an unconscionable degree. A certain class of the money-lenders as a rule never give receipts for the monies they receive from the debtors and they keep their accounts in a language and in a form which none but themselves can decipher or understand. Again the interest charged is exorbitantly high and it is time a reasonable maximum is fixed.

The aim of this Bill therefore is to fix a reasonable maximum rate of interest, to provide for the good and safe conduct of the business of certain kinds of money-lending and to "to secure as between certain classes of money-lenders and debtors an improved system of keeping accounts which will give to the latter a means of ascertaining periodically how their accounts stand and how they are composed". At the same time the Bill is cautious enough not to un-necessarily harass the lender and restrict the facilities for credit. Also by excepting certain classes of loans it expressly avoids interference with accounts connected with trade and commerce. The penalties for non-compliance with the provisions of the Bill are not hard, but reasonable and just sufficient to meet the requirements of the case.

This bill is practically the Punjab Regulation of Accounts Act of 1930 with a few necessary additions to suit local conditions.

C. BASUDEV.

M.L.C.

RIGHT OF THE STATE TO EXPEL FOREIGNERS.

A State is competent to refuse admission to an alien. In conformity to its territorial supremacy it is competent to expel at any moment an alien who has been admitted into its territory. It matters not whether he is only on a temporary visit or has settled down for professional or business purposes on its territory.

In strict law a State can expel even domiciled aliens without so much as giving the reasons. Though even in times of peace, the discretion of a State concerning expulsion of aliens is unfettered, it is not usually exercised except for just causes. Many States possess Municipal Laws determining what are just causes for the expulsion of aliens. Oppenheim in his International Law, Volume I states as follows at p.562:-

"Many States do not possess such laws, so that their discretion as to what is a just cause of expulsion is unfettered. I doubt whether the States will ever come to an agreement about just causes of expulsion. The fact cannot be denied that an alien is more or less a guest in the foreign land, and the question under what conditions a guest makes himself objectionable to his host cannot be answered once for all by the establishment of a body of rules."

As to how expulsion is effected Oppenheim states as follows at p.563:-

"Expulsion is, in theory at least, not a punishment, but an administrative measure consisting in an order of the Government

directing a foreigner to leave the country. Expulsion must therefore be effected with as much forbearance and indulgence as the circumstances and conditions of the case allow and demand, especially when compulsion is meted out to a domiciled alien.

"Should the expelled alien refuse to leave the territory voluntarily, or, after having left, return without authorisation, he may be arrested, punished, and forceably brought to the frontier."

An another method of getting rid of aliens is what is called reconduction. Oppenheim explains this as follows at p.563:-

"In many Continental States destitute aliens, foreign vagabonds, suspicious aliens without papers of legitimation, alien criminals who have served their punishment, and the like, are, without any formalities, arrested by the police and reconducted to the frontier. There is no doubt that the competence to carry out such reconduction, which is often called Droit de renvoi is an inference from the territorial supermacy of every State, for there is no reason whatever why a State should not get rid of such undesirable aliens as speedily as possible."

Wheaton in his International Law observes as follows in regard to this right of a State:-

"It is clearly within the power of any State to expel aliens at pleasure, and Continental States, as a rule, have wide discretion under Municipal Law to Exercise this power, without judicial sentence by executive act, while it is normal for authority to order expulsion of criminals to be vested in the judiciary. Two

Two forms of removal may be distinguished; - formal orders of expulsion which call on the person concerned to leave the country, on pain of forcible removal; and forcible removal, whether in default of departure of one against whom an expulsion order has been issued, or by judicial order, or as an executive act, foreign police often thus putting across a frontier foreign vagabonds, or criminals, or aliens without proper indentification papers or authority to reside. Expulsion or reconduction sometimes is a distinctly friendly act, for some States use this means of helping foreign police to secure criminals without the burden of extradition proceedings; but it may, of course, be resented by the State whose nationals are expelled, and an explanation for the expulsion or reconduction may be asked, though it lies within the discretion of the State which removes to afford the information desired or not."

This sovereign right to expel aliens has ~~right~~ also received judicial recognition. In re. Adam 1 Moore, P.C.460, the Privy Council has stated as follows:- "that the supreme power of every State has a right to make laws for the exclusion or expulsion of a foreigner was not questioned. This Vattel admits as a universal principle. He says' since the lord of the - territory may whenever he thinks proper, forbid its being entered, he has no doubt, the power to annex what condition he pleases to the - permission to enter, this, as we have already said is a consequence of the right of domain.'

"Unless a foreigner procures the permissio of the Government to establish his domicle there his residence in the country must be by mere

mere sufferance and determinable on the pleasure of the Government." "Their Lordships have the satisfaction of knowing, that the conclusions upon both points which they have drawn from these passages are in accordance with the opinions and practice of the French authorities, according to which (as reported to their Lordships) it - appears that unless a foreigner obtains from the Secretary of State a formal written authority to establish his domicile in France, he may though actually domiciled there under the tacit sanction of the Government be ordered to quit the country at any moment, without any cause being assigned for his removal."

In the case of Attorney General for Cannada V Cain (1906 A.C. 542) the Privy Council observed:-

"In 1763 canada and all its dependencies, with the sovereignty, property, and possession, and all other rights which had at any time been held or acquired by the Crown of France, were ceded to Great Britain; Upon that event the Crown of England became possessed of all legislative and executive powers within the country so ceded to it, and, save so far as it has since parted with these powers by legislation, royal proclamation, or voluntary grant, it is still possessed of them. One of the rights possessed by the supreme power in every State is the right -to refuse to permit an alien to enter that State -to annex what conditions it pleases to the permission to enter it, and to expel or deport from the State, at pleasure, even a friendly alien especially if it considers his presence in the State opposed to its peace, order, and good - Government, or to its social or material - interests; Vattel, Law of Nations, book 1, S.231;

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book 2, S.125).

"But as it is conceded that by the law of nations the supreme Power in every State has the right to make laws for the exclusion of - aliens, and to enforce those laws, it necessarily follows that the State has the power to do those things which must be done in the very act of expulsion, if the right to expel is to be - exercised effectively at all, notwithstanding the fact that constraint upon the person of the - alien outside the boundaries of the State or the commission of a trespass by the State Officer on the territories of its neighbour in the - manner pointed out by Anglin J, in his judgment should thereby result. Accordingly it was in In re Adam definitely decided that the Crown had power to remove a foreigner by force from the island of Mauritius, though of course, the - removal in that case would necessarily involve an imprisonment of the alien outside British territory, in the ship on board of which he would be put while it traversed the high seas".

Ce
25/7/1931

Seen. This may be kept for reference

mee
26/7/31

Ce
27/7/31

Submitted for orders as to whether it may be got printed

No

18/6/32

26

the Shanbhogs' in the State that Government should not countenance any such resolutions tha contemplate depriving the Shanbhog of his heriditary rights. Adds that it is open to Government to punish such of the Shanbhogs as misuse public funds deterrently so as to set an exampl to others to be just in their dealings.

Chickmaglur News. "Tai-Nadu", 17-6-33.

States that the Primary School of Basavanahalli in Chickmaglur Town area is without a suitable building and a trained headmaster for a long time and appeals to Government, the School Board authorities and the parents to bestow their attention to rectify these shortcomings i the interests of the school-going boys and thei health.

Havoc of the Pathans. "The Visvakarnataka" 18-5-33.

A Debtor describing the havoc of the pathans says "These atrocious persons can be seen near the old Public Offices, near the City Market and in almost all places of the Cit They are a menace to the people and assault their debtors in a most inhuman way. They pay Rs.100/- and get the bond executed for Rs.300/- with interest at 4 annas per rupee. They rush into the houses and beat their debtors in the streets. Can the Government save the poor fro the clutches of these merciless people?"

Submitted for favour of kind perusal

Chief Secretary.)

19.6.33.

O.B.
How about this?
I remember having once
asked if these suits
trouble have —
RB
20/6
JRM
20/6

Ans. D.V.S (Encl)
DB 20/6/33

Subd

The connected file has been sent to prosecution Br: on 30.5.33. They may be asked to kindly put up the file. Protection Branch D.V.S.
20/6/33. DB

RB
20/6/33.

The O.B file as well